



## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**[Docket Nos. FWS–R6–ES–2011–0111; FWS–R6–ES–2012–0108]**

**[4500030113]**

**RIN 1018–AZ20; RIN 1018–AX71**

### **Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determinations on the Proposed Endangered Status and Proposed Designation of Critical Habitat for Gunnison Sage-Grouse**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rules; reopening of the comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the final determination of whether to list the Gunnison sage-grouse (*Centrocercus minimus*) as endangered and designate critical habitat, and announce the

reopening of the comment period on the proposed rules to list the species and to designate critical habitat. We are taking this action based on our finding that there is substantial disagreement regarding the sufficiency and accuracy of the available data relevant to our determinations regarding the proposed listing rule, making it necessary to solicit additional information by reopening the comment period for 45 days. Comments previously submitted need not be resubmitted as they are already incorporated into the public record and will be fully considered in the final rules.

**DATES:** The comment period end date is [INSERT DATE 45 DAYS AFTER DATE OF FEDERAL REGISTER PUBLICATION]. We request that comments be submitted by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit comments by one of the following methods:

*(1) Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter the appropriate Docket No.: FWS–R6–ES–2012–0108 for the proposed endangered status for Gunnison sage-grouse; or FWS–R6–ES–2011–0111 for the proposed designation of critical habitat for Gunnison sage-grouse. You may submit a comment by clicking on “Comment Now!”

*(2) By hard copy:* For the proposed endangered status for Gunnison sage-grouse, submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn:

FWS–R6–ES–2012–0108; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

*For the proposed designation of critical habitat for Gunnison sage-grouse,*  
submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2011–0111; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments **only** by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Patty Gelatt, Western Colorado Supervisor, U.S. Fish and Wildlife Service, Western Colorado Field Office, 764 Horizon Drive, Building B, Grand Junction, CO 81506–3946; telephone 970–243–2778; facsimile 970–245–6933. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800–877–8339).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On January 11, 2013, we published a proposed rule listing the Gunnison sage-grouse as endangered (78 FR 2486) and a proposed designation of critical habitat for the Gunnison sage-grouse (78 FR 2540) under the Endangered Species Act of 1973, as amended (Act). For a description of previous Federal actions concerning the Gunnison sage-grouse, please refer to the proposed listing rule. We held four public meetings regarding the proposed rule and designation in January and February 2013 and also extended the initial 60-day comment period on these proposals by an additional 21 days, until April 2, 2013 (78 FR 15925, March 13, 2013). We also solicited and received independent scientific review of the information contained in each proposed rule from peer reviewers with expertise in Gunnison sage-grouse or similar species biology, in accordance with our July 1, 1994 peer review policy (59 FR 34270).

Section 4(b)(6) of the Act and its implementing regulation, 50 CFR 424.17(a), requires that we take one of three actions within 1 year of a proposed listing and concurrent proposed designation of critical habitat: (1) Finalize the proposed rules; (2) withdraw the proposed rules; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement among scientists knowledgeable about the species regarding the sufficiency or accuracy of the available data relevant to the determination, for the purposes of soliciting additional data.

During the public comment period, we received multiple comments on the proposed listing and critical habitat designation from scientists with knowledge of the species and others regarding the sufficiency or accuracy of the available data used to

support these proposed rulemakings. We also received comments on the proposed rules from scientists with expertise on Gunnison sage-grouse or similar species biology through the peer review process. In particular, commenters raised questions regarding:

- (1) *The interpretation of scientific literature in the proposed rulemakings, and scientific literature that we may have overlooked in our analysis.*

Specifically, some scientists knowledgeable about the species were concerned with the appropriateness of our interpretation of a study by Aldridge *et al.* (2011) on habitat use by Gunnison sage-grouse near roads and residential developments, and a study by Wisdom *et al.* (2011) which concludes that there are no strongholds for the species. These commenters also suggested that there may be additional, relevant studies that were not analyzed in the proposed rules.

- (2) *Gunnison sage-grouse population trends.* Specifically, some scientists questioned our analysis of the species' population trends in the Gunnison Basin, suggesting we did not account for increasing lek counts and what these scientists consider a low risk of extinction in that population.

- (3) *The scope and efficacy of Gunnison County's regulatory mechanisms in addressing threats to Gunnison sage-grouse in the Gunnison Basin.*

Specifically, we received comments suggesting that we may have underestimated the extent to which Gunnison County's regulatory mechanisms address residential development and other threats to the species.

- (4) *The accuracy of projections about the extent of future residential development within the range of the species.* Specifically, commenters suggested that we may have overestimated the amount of future growth in human populations and development that is expected to occur within the species' range in the Gunnison Basin.
- (5) *What constitutes historical habitat and important current habitat for the species.* Specifically, some scientists knowledgeable about the species suggested we may have overestimated the extent of historical Gunnison sage-grouse habitat, and habitat that is important for the species.

As a result of these comments, we find that there is substantial disagreement among scientists knowledgeable about the species regarding the sufficiency and accuracy of the available data that is relevant to our determination of the proposed listing and critical habitat designation. In consideration of these scientific disagreements, we have determined that a 6-month extension of final determinations for these rulemakings is warranted, and are hereby extending the final determinations for 6 months in order to solicit information that will help to clarify these issues and to fully analyze this information. This extension will also allow us to solicit and consider information relating to other substantial disagreements regarding available data that are relevant to our final listing determination. If we determine that listing is warranted, we will designate critical habitat to the maximum extent prudent and determinable.

As noted in the proposed listing rule (78 FR 2486), we were previously required by the terms of a judicially approved settlement agreement to make a final determination on the Gunnison sage-grouse proposed rules no later than September 30, 2013. Therefore, with this 6-month extension, we will make a final determination on the proposed rules no later than March 31, 2014.

### **Public Comments**

We will accept written comments and information during this reopened comment period on our proposed listing for the Gunnison sage-grouse that was published in the **Federal Register** on January 11, 2013 (78 FR 2486), and our proposed critical habitat designation for the Gunnison sage-grouse that was published in the **Federal Register** on January 11, 2013 (78 FR 2540). We will consider information and recommendations from all interested parties. We intend that any final action resulting from these proposals be as accurate as possible and based on the best available scientific and commercial data.

In consideration of the scientific and other disagreements about the data used to support these proposed rulemakings, we are particularly interested in new information and comment regarding:

- (1) Whether we have appropriately interpreted the scientific studies cited in the proposed rule, and whether there is additional scientific information we may have overlooked;

- (2) Gunnison sage-grouse population trends in each population area;
- (3) The scope and effectiveness of regulatory mechanisms enacted by Gunnison County to address threats to the Gunnison sage-grouse;
- (4) Projections for future residential development and human population growth within Gunnison sage-grouse range in the Gunnison Basin including portions of Gunnison and Saguache Counties; and
- (5) What constitutes historical habitat and important current habitat for the species.

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning this proposed listing will take into consideration all written comments and any additional information we received.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section above. We request that you send comments **only** by the methods described in the **ADDRESSES** section.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this

information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rules, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Western Colorado Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rules on the Internet at <http://www.regulations.gov> at Docket No. FWS–R6–ES–2012–0108 for the proposed endangered status for Gunnison sage-grouse; or Docket No. FWS–R6–ES–2011–0111 for the proposed designation of critical habitat for Gunnison sage-grouse. Copies of the proposed rules are also available at <http://www.fws.gov/mountain-prairie/species/birds/gunnisonsagegrouse/>. A notice of availability for the draft economic analysis of the proposed designation of critical habitat for the Gunnison sage-grouse will be published in the **Federal Register** in the near future.

## **Authors**

The primary authors of this notice are the staff of the U.S. Fish and Wildlife Service.

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: June 26, 2013

Stephen Guertin\_

Deputy Director, U.S. Fish and Wildlife Service

**[Billing Code: 4310-55-P]**

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